



Allegaert Berger & Vogel LLP

John S. Craig  
Direct: 212.616.7075  
jcraig@abv.com

ATTORNEYS

111 Broadway, 20th Floor  
New York, New York 10006  
212.571.0550  
212.571.0555 Fax

1199 Route 22 East  
Mountainside, New Jersey 07092  
908.228.8500  
908.228.8515 Fax

www.ABV.com

April 10, 2019

**BY ECF**

The Honorable Judge Paul A. Engelmayer  
United States District Courthouse  
Southern District of New York  
40 Foley Square, Room 2201  
New York, New York 10007

*Figueroa v. Encore 49 Housing Development Fund Co., Inc., et al.,*  
18-cv-01337  
- and -  
*Vuppala v. Piatti Italiani LLC, et al.,*  
17-cv-09219

Honorable Judge Engelmayer:

We represent defendants Encore 49 Housing Development Fund Co., Inc., (“Encore 49”) and Sister Elizabeth Hasselt (together the “Encore 49 Defendants”) and defendants Fratelli Italiani LLC and Kavita S. Jagnarine (the “Fratelli Defendants” and together with the Encore 49 Defendants, the “Defendants”) and write to make this joint submission on behalf of all parties to the above referenced cases (the “Actions”), in accordance with Your Honor’s directive “that the parties file a joint status update on the docket of this case by April 11, 2019”. All parties to the Action have had the opportunity to review and comment on this letter.

We understand from the filings from counsel for Mr. Figueroa, Mr. Finkelstein, that his client has refused to respond to his “approximately six voice mail messages” since “the early part of January, 2019”. (Docket No. 59.) On Monday, April 8, 2019, counsel for Encore 49 spoke with Mr. Finkelstein, who reiterated that he had asked to be relieved of his representation of Mr. Figueroa, based on his client’s persistent failure to return calls.

This has presented a problem for all parties to the Action, because on or about January 31, 2019, the parties agreed to a settlement in principle of the Actions. Mr. Figueroa’s failure to contact his counsel means that this settlement cannot be completed.

The Honorable Judge Paul A. Engelmayer  
April 11, 2019  
Page 2

The Defendants would respectfully request that Mr. Figueroa be given an appropriate amount of time to either respond to Mr. Finkelstein, appear with other counsel, or appear *pro se* in the Actions. If he does not choose to do so, his claims should be dismissed with prejudice as a result of his failure to prosecute. Fed. R. Civ. P. 41(b).<sup>1</sup> This would then free the Defendants to complete their settlement with the other Plaintiff and resolve both Actions before Your Honor.

Respectfully submitted,

By: /s/ Jeffrey C. Chancas  
Jeffrey C. Chancas  
Borah, Goldstein, Altschuler,  
Nahins & Goidel, P.C.  
377 Broadway, 6th Floor  
New York, New York 10013  
Tel: (212) 431-1300  
Email: jchancas@borahgoldstein.com  
*Counsel for the Fratelli Italiani Defendants*

By: /s/ John S. Craig  
John S. Craig  
Allegaert Berger & Vogel LLP  
111 Broadway, 20th Floor  
New York, New York 10006  
Tel: 212-571-0550  
Email: jcraig@abv.com  
*Counsel for the Encore 49 Defendants*

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<sup>1</sup> As Mr. Finkelstein remains counsel of record for Mr. Figueroa, if Your Honor agrees with this course of action, Defendants would respectfully request that Mr. Finkelstein be directed to provide notice to Mr. Figueroa at his last known address, by certified mail, return receipt requested, as Defendants are not permitted to contact a represented party about the subject of the representation.